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24 **UNITED STATES DISTRICT COURT**  
25 **DISTRICT OF NEVADA**

26 **FEDERAL TRADE COMMISSION,**

27 Plaintiff,

28 v.

**SEQUOIA ONE, LLC**, a Wyoming limited  
liability company, **GEN X MARKETING**  
**GROUP, LLC**, a Florida limited liability  
company, **JASON A. KOTZKER, THERESA**  
**D. BARTHOLOMEW, JOHN E.**  
**BARTHOLOMEW, JR., and PAUL T.**  
**MCDONNELL,**

Defendants.

**Case No. 2:15-cv-01512-JCM-CWH**

**STIPULATION TO ENTER FINAL  
ORDER FOR PERMANENT  
INJUNCTION AND  
SETTLEMENT OF CLAIMS AS  
TO DEFENDANTS THERESA  
BARTHOLOMEW AND JOHN  
BARTHOLOMEW**

1 Plaintiff, the Federal Trade Commission (“FTC”), filed its Complaint for Permanent  
2 Injunction and Other Equitable Relief (“Complaint”) for a permanent injunction and other  
3 equitable relief in this matter, pursuant to Section 13(b) of the Federal Trade Commission Act  
4 (“FTC Act”), 15 U.S.C. § 53(b). The FTC and Defendants Theresa Bartholomew and John  
5 Bartholomew stipulate to the entry of this Final Order for Permanent Injunction and Settlement  
6 of Claims (“Order”) to resolve all matters in dispute in this action between them. The proposed  
7 order is attached hereto.  
8

### 9 FINDINGS

10 By stipulation of the parties, the Court finds as follows:

- 11 1. This is an action by the FTC instituted under Section 13(b) of the FTC Act, 15 U.S.C. §  
12 53(b). The Complaint charges that Defendants participated in unfair acts or practices in  
13 violation of Section 5 of the FTC Act, 15 U.S.C. § 45, in connection with the disclosure  
14 of consumers’ sensitive personal information. The Complaint seeks both permanent  
15 injunctive relief and equitable monetary relief for Defendants’ alleged unfair acts or  
16 practices as alleged therein.  
17
- 18 2. The FTC has the authority under Section 13(b) of the FTC Act to seek the relief it has  
19 requested, and the Complaint states a claim upon which relief can be granted against the  
20 Stipulating Defendants.  
21
- 22 3. The Stipulating Defendants have waived service of the summons and Complaint.  
23
- 24 4. This Court has jurisdiction over the subject matter of this case and has jurisdiction over  
25 the Stipulating Defendants. Venue in the District of Nevada is proper.  
26
- 27 5. The activities of the Stipulating Defendants, as alleged in the Complaint, are in or  
28 affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

- 1 6. The Stipulating Defendants neither admit nor deny any of the allegations in the  
2 Complaint, except as specifically stated in this Order. Only for purposes of this action,  
3 the Stipulating Defendants admit the facts necessary to establish jurisdiction.
- 4 7. The Stipulating Defendants waive all rights to appeal or otherwise challenge or contest  
5 the validity of this Order. The Stipulating Defendants also waive any claim that they may  
6 have held under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the  
7 prosecution of this action to the date of this Order. The FTC and the Stipulating  
8 Defendants each shall bear its own costs and attorneys' fees.
- 9 8. This action and the relief awarded herein are in addition to, and not in lieu of, other  
10 remedies as may be provided by law, including both civil and criminal remedies.
- 11 9. Entry of this Order is in the public interest.

#### 12 DEFINITIONS

13 For the purpose of this Order, the following definitions apply:

- 14 1. **"Corporate Defendants"** means Sequoia One, LLC and Gen X Marketing Group, LLC,  
15 and their successors and assigns.
- 16 2. **"Defendants"** means all of the Individual Defendants and the Corporate Defendants,  
17 individually, collectively, or in any combination.
- 18 3. **"Financial product or service"** means any product, service, plan, or program  
19 represented, expressly or by implication, to: (a) provide any consumer, arrange for any  
20 consumer to receive, or assist any consumer in receiving, a loan or other extension of  
21 credit; (b) provide any consumer, arrange for any consumer to receive, or assist any  
22 consumer in receiving, credit, debit, or stored value cards; (c) improve, repair, or arrange  
23 to improve or repair, any consumer's credit record, credit history, or credit rating; or (d)  
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1 provide advice or assistance to improve any consumer's credit record, credit history, or  
2 credit rating.

3 4. **"Individual Defendants"** means Jason A. Kotzker, John E. Bartholomew, Jr., Theresa D.  
4 Bartholomew, and Paul T. McDonnell.

5 5. **"Lender"** means any Person who provides or issues loans or other extensions of credit.

6 6. **"Person"** means a natural person, organization, or other legal entity, including a  
7 corporation, partnership, proprietorship, association, cooperative, or any other group or  
8 combination acting as an entity.  
9

10 7. **"Sensitive Personal Information"** means any of the following about a consumer: (a)  
11 Social Security number; (b) financial institution account number; (c) credit or debit card  
12 information; or (d) any other information by which a consumer's financial account can be  
13 accessed, or by which a consumer might be charged for goods or services, including  
14 through third parties such as telecommunications carriers.  
15

16 8. **"Stipulating Defendants"** means Theresa D. Bartholomew and John E. Bartholomew, Jr.  
17 and by whatever names they might be known.  
18

## 19 ORDER

### 20 PROHIBITION ON THE DISCLOSURE OF SENSITIVE PERSONAL INFORMATION

21 I. **IT IS THEREFORE ORDERED** that the Stipulating Defendants are hereby  
22 permanently restrained and enjoined from, or assisting others engaged in, selling,  
23 transferring, or otherwise disclosing the Sensitive Personal Information of a consumer  
24 (other than the Stipulating Defendants and their immediate family) to any Person;  
25 *provided, however,* that this Section I shall not prohibit a Stipulating Defendant from  
26 transferring or otherwise disclosing a consumer's Sensitive Personal Information to the  
27  
28

1 extent necessary to process payment for any product or service sold by that Stipulating  
2 Defendant directly to that consumer and for which that Stipulating Defendant has the  
3 consumer's express, informed consent for that sale.

4 **PROHIBITED MISREPRESENTATIONS RELATING TO FINANCIAL RELATED**  
5 **PRODUCTS OR SERVICES**

6 **II. IT IS FURTHER ORDERED** that the Stipulating Defendants and their officers, agents,  
7 employees, and attorneys, and those Persons or entities in active concert or participation  
8 with any of them who receive actual notice of this Order by personal service, facsimile  
9 transmission, email, or otherwise, whether acting directly or indirectly, in connection  
10 with the advertising, marketing, promotion, offering for sale, or selling of any Financial  
11 product or service, are hereby permanently restrained and enjoined from misrepresenting  
12 or assisting others in misrepresenting, expressly or by implication:

14 A. The likelihood that any Person will obtain a loan or other extension of credit; and

16 B. The terms or rates that are available for any loan or other extension of credit.

17 **PROHIBITED MISREPRESENTATIONS RELATING TO ALL PRODUCTS OR**  
18 **SERVICES**

19 **III. IT IS FURTHER ORDERED** that the Stipulating Defendants and their officers, agents,  
20 employees, and attorneys, and those Persons or entities in active concert or participation  
21 with any of them who receive actual notice of this Order by personal service, facsimile  
22 transmission, email, or otherwise, whether acting directly or indirectly, in connection  
23 with the advertising, marketing, promotion, offering for sale, or selling of any product or  
24 service, are hereby permanently restrained and enjoined from misrepresenting or assisting  
25 others in misrepresenting, expressly or by implication:  
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- 1 A. That a consumer has authorized or otherwise consented to the purchase of a
- 2 product or service;
- 3 B. That any particular outcome or result from a product or service is guaranteed,
- 4 assured, highly likely or probable, or very likely or probable;
- 5 C. The nature or terms of any refund, cancellation, exchange, or repurchase policy,
- 6 including, but not limited to, the likelihood of a consumer obtaining a full or
- 7 partial refund, or the circumstances in which a full or partial refund will be
- 8 provided to the consumer; and
- 9
- 10 D. Any other fact material to consumers concerning any product or service, such as:
- 11 the total costs; any material restrictions, limitations, or conditions; or any material
- 12 aspect of its performance, efficacy, nature, or central characteristics.
- 13

#### 14 CONSUMER INFORMATION

15 **IV. IT IS FURTHER ORDERED** that the Stipulating Defendants and their officers, agents,  
16 employees, and attorneys, and those Persons or entities in active concert or participation  
17 with any of them who receive actual notice of this Order by personal service, facsimile  
18 transmission, email, or otherwise, whether acting directly or indirectly, are permanently  
19 restrained and enjoined from directly or indirectly:  
20

- 21 A. Failing to provide sufficient customer information to enable the FTC to
- 22 administer efficiently consumer redress. If a representative of the FTC requests in
- 23 writing any information related to redress, the Stipulating Defendants must
- 24 provide it, in the form prescribed by the FTC, within 14 days.
- 25
- 26 B. Disclosing, using, or benefitting from customer information, including the name,
- 27 address, telephone number, email address, social security number, other
- 28

identifying information, or any data that enables access to a customer's account (including a credit card, bank account, or other financial account) that any Defendant obtained prior to entry of this Order in connection with the marketing or offering of payday loans or other extensions of credit.

- C. Failing to destroy such customer information in all forms in their possession, custody, or control within thirty (30) days after receipt of written direction to do so from a representative of the FTC.

*Provided, however,* that customer information need not be disposed of, and may be disclosed, to the extent requested by a government agency or required by a law, regulation, or court order.

#### **MONETARY JUDGMENT AND SUSPENSION**

#### **V. IT IS FURTHER ORDERED that:**

- A. Judgment in the amount of SEVEN MILLION, ONE HUNDRED THIRTY-FIVE THOUSAND, NINE HUNDRED AND NINETY-TWO DOLLARS (\$7,135,992) is entered in favor of the FTC against the Stipulating Defendants, jointly and severally with any other Defendant in this action against whom judgment may be entered, as equitable monetary relief.
- B. The Stipulating Defendants shall, within ten (10) business days from the date of entry of this Order, transfer to the FTC or its designated agent cash in the amount of \$15,000.
- C. Upon the asset transfers identified in this Section, the remainder of the judgment is suspended as to the Stipulating Defendants, subject to the Subsections below.
- D. The FTC's agreement to the suspension of the judgment is expressly premised upon

1 the truthfulness, accuracy, and completeness of the Stipulating Defendants' sworn  
2 financial statements and related documents (collectively, "financial  
3 representations") submitted to the FTC, namely (1) the Financial Statement of  
4 Individual Defendant Theresa Bartholomew signed on April 26, 2015, including the  
5 attachments, and (2) the Financial Statement of Individual Defendant John  
6 Bartholomew signed on April 24, 2015, including the attachments.  
7

8 E. The suspension of the judgment will be lifted as to any Stipulating Defendant if,  
9 upon motion by the FTC, the Court finds that that Stipulating Defendant failed to  
10 disclose any material asset, materially misstated the value of any asset, or made any  
11 other material misstatement or omission in the financial representations identified  
12 above.  
13

14 F. If the suspension of the judgment is lifted, the judgment becomes immediately due  
15 as to that Stipulating Defendant in the amount specified in Subsection A above  
16 (which the parties stipulate only for purposes of this Section represents the  
17 consumer injury alleged in the Complaint), less any payment previously made  
18 pursuant to this Section, plus interest computed from the date of entry of this Order.  
19

20 G. All money paid to the FTC pursuant to this Order may be deposited into a fund  
21 administered by the FTC or its designee to be used for equitable relief, including  
22 consumer redress and any attendant expenses for the administration of any redress  
23 fund. If a representative of the FTC decides that direct redress to consumers is  
24 wholly or partially impracticable or money remains after redress is completed, the  
25 FTC may apply any remaining money for such other equitable relief (including  
26 consumer information remedies) as the FTC determines to be reasonably related to  
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1 the Stipulating Defendants' practices alleged in the Complaint. Any money not  
2 used for such equitable relief is to be deposited to the United States Treasury as  
3 equitable disgorgement. Defendants have no right to challenge any actions the FTC  
4 or its representatives may take pursuant to this Subsection.

5 H. The Stipulating Defendants relinquish dominion and all legal and equitable right,  
6 title, and interest in all assets transferred pursuant to this Order and may not seek  
7 the return of any assets.  
8

9 I. The facts alleged in the Complaint will be taken as true, without further proof, in  
10 any subsequent civil litigation by or on behalf of the FTC, including in a proceeding  
11 to enforce its rights to any payment or monetary judgment pursuant to this Order,  
12 such as a nondischargeability complaint in any bankruptcy case.  
13

14 J. The facts alleged in the Complaint establish all elements necessary to sustain an  
15 action by the FTC pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11  
16 U.S.C. § 523(a)(2)(A), and this Order will have collateral estoppel effect for such  
17 purposes.  
18

19 K. The Stipulating Defendants acknowledge that their Taxpayer Identification  
20 Numbers (Social Security Numbers or Employer Identification Numbers), which  
21 the Stipulating Defendants previously submitted to the FTC, may be used for  
22 collecting and reporting on any delinquent amount arising out of this Order, in  
23 accordance with 31 U.S.C. § 7701.  
24

25 L. Upon written request from a representative of the FTC, any consumer reporting  
26 agency may furnish consumer reports concerning any Stipulating Defendant,  
27  
28

pursuant to Section 604(a)(1) of the Fair Credit Reporting Act, 15 U.S.C. §  
1681b(a)(1).

### **COOPERATION**

**VI. IT IS FURTHER ORDERED** the Stipulating Defendants must fully cooperate with representatives of the FTC in this case and in any investigation related to or associated with the transactions or the occurrences that are the subject of the Complaint. The Stipulating Defendants must provide truthful and complete information, evidence, and testimony. The Stipulating Defendants must appear for interviews, discovery, hearings, trials, and any other proceedings that a FTC representative may reasonably request upon 5 days written notice, or other reasonable notice, at such places and times as a FTC representative may designate, without the service of a subpoena.

### **ORDER ACKNOWLEDGMENTS**

**VII. IT IS FURTHER ORDERED** that the Stipulating Defendants obtain acknowledgments of receipt of this Order:

- A. Each Stipulating Defendants, within 7 days of entry of this Order, must submit to the FTC an acknowledgment of receipt of this Order sworn under penalty of perjury.
- B. For 5 years after entry of this Order, each Stipulating Defendant for any business that such Defendant, individually or collectively with any other Defendant, is the majority owner or controls directly or indirectly, must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees, agents, and representatives who participate in conduct related to the subject matter of the Order; and (3) any business entity resulting from any change

1 in structure as set forth in the Section titled Compliance Reporting. Delivery must  
2 occur within 7 days of entry of this Order for current personnel. To all others,  
3 delivery must occur before they assume their responsibilities.

- 4 C. From each individual or entity to which a Stipulating Defendant delivered a copy  
5 of this Order, that Stipulating Defendant must obtain, within 30 days, a signed and  
6 dated acknowledgment of receipt of this Order.  
7

#### 8 **COMPLIANCE REPORTING**

9 **VIII. IT IS FURTHER ORDERED** that the Stipulating Defendants make timely submissions  
10 to the FTC:

- 11 A. One year after entry of this Order, each Stipulating Defendant must submit a  
12 compliance report, sworn under penalty of perjury:

- 13 1. Each Stipulating Defendant must: (a) identify the primary physical,  
14 postal, and email address and telephone number, as designated points of  
15 contact, which representatives of the FTC may use to communicate with  
16 the Stipulating Defendant; (b) identify all of the Stipulating Defendant's  
17 businesses by all of their names, telephone numbers, and physical, postal,  
18 email, and Internet addresses; (c) describe the activities of each business,  
19 including the products and services offered, the means of advertising,  
20 marketing, and sales, and the involvement of any other Defendant (which  
21 the Stipulating Defendant must describe if he or she knows or should  
22 know due to his or her own involvement); (d) describe in detail whether  
23 and how the Stipulating Defendant is in compliance with each Section of  
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1 this Order; and (e) provide a copy of each Order Acknowledgment  
2 obtained pursuant to this Order, unless previously submitted to the FTC;

- 3 2. Additionally, each Stipulating Defendant must: (a) identify all telephone  
4 numbers and physical, postal, email, and Internet addresses, including all  
5 residences; (b) identify all business activities, including any business for  
6 which the Stipulating Defendant performs services whether as an  
7 employee or otherwise and any entity in which the Stipulating Defendant  
8 has any ownership interest; and (c) describe in detail the Stipulating  
9 Defendant's involvement in each such business, including title, role,  
10 responsibilities, participation, authority, control, and any ownership.  
11

- 12 B. For 20 years following entry of this Order, each Stipulating Defendant must  
13 submit a compliance notice, sworn under penalty of perjury, within 14 days of  
14 any change in the following:  
15

- 16 1. Each Stipulating Defendant must report any change in: (a) any designated  
17 point of contact; or (b) the structure of any entity that the Stipulating  
18 Defendant has any ownership interest in or controls directly or indirectly  
19 that may affect compliance obligations arising under this Order, including:  
20 creation, merger, sale, or dissolution of the entity or any subsidiary,  
21 parent, or affiliate that engages in any acts or practices subject to this  
22 Order.  
23  
24 2. Additionally, each Stipulating Defendant must report any change in: (a)  
25 name, including aliases or fictitious name, or residence address; or (b) title  
26 or role in any business activity, including any business for which the  
27  
28

1 Stipulating Defendant performs services whether as an employee or  
2 otherwise and any entity in which the Stipulating Defendant has any  
3 ownership interest, and identify the name, physical address, and Internet  
4 address of the business entity.

5 C. Each Stipulating Defendant must submit to the FTC notice of the filing of any  
6 bankruptcy petition, insolvency proceeding, or similar proceeding by or against  
7 such Stipulating Defendant within 14 days of its filing.

8  
9 D. Any submission to the FTC required by this Order to be sworn under penalty of  
10 perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by  
11 concluding: “I declare under penalty of perjury under the laws of the United  
12 States of America that the foregoing is true and correct. Executed on:\_\_\_\_\_” and  
13 supplying the date, signatory’s full name, title (if applicable), and signature.

14  
15 E. Unless otherwise directed by a FTC representative in writing, all submissions to  
16 the FTC pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by  
17 overnight courier (not the U.S. Postal Service) to: Associate Director for  
18 Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600  
19 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin:  
20 *FTC v. Sequoia One, et al.*

21  
22 **RECORDKEEPING**

23 **IX. IT IS FURTHER ORDERED** that the Stipulating Defendants must create certain  
24 records for 20 years after entry of the Order, and retain each such record for 5 years.  
25 Specifically, each Stipulating Defendant for any business that the Stipulating Defendant,  
26  
27  
28

1 individually or collectively with any other Defendant, is a majority owner or controls  
2 directly or indirectly, must create and maintain the following records:

- 3 A. Proof of consumers' authorization to have their sensitive personal information  
4 transferred or disclosed, which includes the consumer's name, phone number, and  
5 address; and the manner, time, place, and method of the authorization;  
6  
7 B. Accounting records showing the revenues from all goods or services sold, all  
8 costs incurred in generating those revenues, and the resulting net profit or loss;  
9  
10 C. Personnel records showing, for each person providing services, whether as an  
11 employee or otherwise, that person's: name, addresses, and telephone numbers;  
12 job title or position; dates of service; and, if applicable, the reason for termination;  
13  
14 D. Records of all consumer complaints and refund requests, whether received  
15 directly or indirectly, such as through a third party, and any response;  
16  
17 E. All records necessary to demonstrate full compliance with each provision of this  
18 Order, including all submissions to the FTC; and  
19  
20 F. A copy of each advertisement or other marketing material.

### 21 COMPLIANCE MONITORING

22 **X. IT IS FURTHER ORDERED** that, for the purpose of monitoring the Stipulating  
23 Defendants' compliance with this Order, including the financial representations upon  
24 which part of the judgment was suspended and any failure to transfer any assets as  
25 required by this Order:

- 26 A. Within 14 days of receipt of a written request from a representative of the FTC,  
27 each Stipulating Defendant must: submit additional compliance reports or other  
28 requested information, which must be sworn under penalty of perjury; appear for

1 depositions; and produce documents, for inspection and copying. The FTC is also  
2 authorized to obtain discovery, without further leave of Court, using any of the  
3 procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including  
4 telephonic depositions), 31, 33, 34, 36, 45, and 69.

5 B. For matters concerning this Order, the FTC is authorized to communicate directly  
6 with each Stipulating Defendant. The Stipulating Defendants must permit  
7 representatives of the FTC to interview any employee or other person affiliated  
8 with any Stipulating Defendant who has agreed to such an interview. The person  
9 interviewed may have counsel present.  
10

11 C. The FTC may use all other lawful means, including posing, through its  
12 representatives, as consumers, suppliers, or other individuals or entities, to the  
13 Stipulating Defendants or any individual or entity affiliated with the Stipulating  
14 Defendants, without the necessity of identification or prior notice. Nothing in this  
15 Order limits the FTC's lawful use of compulsory process, pursuant to Sections 9  
16 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.  
17  
18

#### 19 ENTRY OF JUDGMENT

20 **XI. IT IS FURTHER ORDERED** that there is no just reason for delay of entry of this  
21 judgment, and that, pursuant to Federal Rule of Civil Procedure 54(b), the Clerk  
22 immediately shall enter this Order as a final judgment as to defendants Theresa  
23 Bartholomew and John Bartholomew.  
24


#### 25 RETENTION OF JURISDICTION

26 **XII. IT IS FURTHER ORDERED** that this Court retains jurisdiction of this matter for  
27 purposes of construction, modification, and enforcement of this Order.  
28

IT IS SO STIPULATED:

  
THERESA BARTHOLOMEW,  
*Defendant Pro Se*

  
JOHN BARTHOLOMEW,  
*Defendant Pro Se*

  
GREGORY A. ASHE  
BRIAN SHULL  
PETER LAMBERTON  
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*Attorneys for Plaintiff*  
FEDERAL TRADE COMMISSION



UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

**FEDERAL TRADE COMMISSION,**

Plaintiff,

v.

**SEQUOIA ONE, LLC**, a Wyoming limited liability company, **GEN X MARKETING GROUP, LLC**, a Florida limited liability company, **JASON A. KOTZKER, THERESA D. BARTHOLOMEW, JOHN E. BARTHOLOMEW, JR., and PAUL T. MCDONNELL,**

Defendants.

**Case No. 2:15-cv-01512-JCM-CWH**

**STIPULATED FINAL  
ORDER FOR PERMANENT  
INJUNCTION AND  
SETTLEMENT OF CLAIMS AS  
TO DEFENDANTS THERESA  
BARTHOLOMEW AND JOHN  
BARTHOLOMEW**

Plaintiff, the Federal Trade Commission (“FTC”), filed its Complaint for Permanent Injunction and Other Equitable Relief (“Complaint”) for a permanent injunction and other equitable relief in this matter, pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b). The FTC and Defendants Theresa Bartholomew and John Bartholomew stipulate to the entry of this Final Order for Permanent Injunction and Settlement of Claims (“Order”) to resolve all matters in dispute in this action between them.

**FINDINGS**

By stipulation of the parties, the Court finds as follows:

1. This is an action by the FTC instituted under Section 13(b) of the FTC Act, 15 U.S.C. § 53(b). The Complaint charges that Defendants participated in unfair acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, in connection with the disclosure of consumers’ sensitive personal information. The Complaint seeks both permanent

1 injunctive relief and equitable monetary relief for Defendants' alleged unfair acts or  
2 practices as alleged therein.

3 2. The FTC has the authority under Section 13(b) of the FTC Act to seek the relief it has  
4 requested, and the Complaint states a claim upon which relief can be granted against the  
5 Stipulating Defendants.

6 3. The Stipulating Defendants have waived service of the summons and Complaint.

7 4. This Court has jurisdiction over the subject matter of this case and has jurisdiction over  
8 the Stipulating Defendants. Venue in the District of Nevada is proper.

9 5. The activities of the Stipulating Defendants, as alleged in the Complaint, are in or  
10 affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

11 6. The Stipulating Defendants neither admit nor deny any of the allegations in the  
12 Complaint, except as specifically stated in this Order. Only for purposes of this action,  
13 the Stipulating Defendants admit the facts necessary to establish jurisdiction.

14 7. The Stipulating Defendants waive all rights to appeal or otherwise challenge or contest  
15 the validity of this Order. The Stipulating Defendants also waive any claim that they may  
16 have held under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the  
17 prosecution of this action to the date of this Order. The FTC and the Stipulating  
18 Defendants each shall bear its own costs and attorneys' fees.

19 8. This action and the relief awarded herein are in addition to, and not in lieu of, other  
20 remedies as may be provided by law, including both civil and criminal remedies.

21 9. Entry of this Order is in the public interest.

## 22 **DEFINITIONS**

23 For the purpose of this Order, the following definitions apply:  
24  
25  
26  
27  
28

- 1 1. **“Corporate Defendants”** means Sequoia One, LLC and Gen X Marketing Group, LLC,  
2 and their successors and assigns.
- 3 2. **“Defendants”** means all of the Individual Defendants and the Corporate Defendants,  
4 individually, collectively, or in any combination.
- 5 3. **“Financial product or service”** means any product, service, plan, or program  
6 represented, expressly or by implication, to: (a) provide any consumer, arrange for any  
7 consumer to receive, or assist any consumer in receiving, a loan or other extension of  
8 credit; (b) provide any consumer, arrange for any consumer to receive, or assist any  
9 consumer in receiving, credit, debit, or stored value cards; (c) improve, repair, or arrange  
10 to improve or repair, any consumer’s credit record, credit history, or credit rating; or (d)  
11 provide advice or assistance to improve any consumer’s credit record, credit history, or  
12 credit rating.  
13
- 14 4. **“Individual Defendants”** means Jason A. Kotzker, John E. Bartholomew, Jr., Theresa D.  
15 Bartholomew, and Paul T. McDonnell.  
16
- 17 5. **“Lender”** means any Person who provides or issues loans or other extensions of credit.  
18
- 19 6. **“Person”** means a natural person, organization, or other legal entity, including a  
20 corporation, partnership, proprietorship, association, cooperative, or any other group or  
21 combination acting as an entity.
- 22 7. **“Sensitive Personal Information”** means any of the following about a consumer: (a)  
23 Social Security number; (b) financial institution account number; (c) credit or debit card  
24 information; or (d) any other information by which a consumer’s financial account can be  
25 accessed, or by which a consumer might be charged for goods or services, including  
26 through third parties such as telecommunications carriers.  
27  
28

- 1 8. “**Stipulating Defendants**” means Theresa D. Bartholomew and John E. Bartholomew, Jr.  
2 and by whatever names they might be known.

3 **ORDER**

4 **PROHIBITION ON THE DISCLOSURE OF SENSITIVE PERSONAL INFORMATION**

- 5 **I. IT IS THEREFORE ORDERED** that the Stipulating Defendants are hereby  
6 permanently restrained and enjoined from, or assisting others engaged in, selling,  
7 transferring, or otherwise disclosing the Sensitive Personal Information of a consumer  
8 (other than the Stipulating Defendants and their immediate family) to any Person;  
9 *provided, however,* that this Section I shall not prohibit a Stipulating Defendant from  
10 transferring or otherwise disclosing a consumer’s Sensitive Personal Information to the  
11 extent necessary to process payment for any product or service sold by that Stipulating  
12 Defendant directly to that consumer and for which that Stipulating Defendant has the  
13 consumer’s express, informed consent for that sale.  
14

15  
16 **PROHIBITED MISREPRESENTATIONS RELATING TO FINANCIAL RELATED**  
17 **PRODUCTS OR SERVICES**

- 18 **II. IT IS FURTHER ORDERED** that the Stipulating Defendants and their officers, agents,  
19 employees, and attorneys, and those Persons or entities in active concert or participation  
20 with any of them who receive actual notice of this Order by personal service, facsimile  
21 transmission, email, or otherwise, whether acting directly or indirectly, in connection  
22 with the advertising, marketing, promotion, offering for sale, or selling of any Financial  
23 product or service, are hereby permanently restrained and enjoined from misrepresenting  
24 or assisting others in misrepresenting, expressly or by implication:  
25

- 26 A. The likelihood that any Person will obtain a loan or other extension of credit; and  
27 B. The terms or rates that are available for any loan or other extension of credit.  
28

**PROHIBITED MISREPRESENTATIONS RELATING TO ALL PRODUCTS OR SERVICES**

**III. IT IS FURTHER ORDERED** that the Stipulating Defendants and their officers, agents, employees, and attorneys, and those Persons or entities in active concert or participation with any of them who receive actual notice of this Order by personal service, facsimile transmission, email, or otherwise, whether acting directly or indirectly, in connection with the advertising, marketing, promotion, offering for sale, or selling of any product or service, are hereby permanently restrained and enjoined from misrepresenting or assisting others in misrepresenting, expressly or by implication:

- A. That a consumer has authorized or otherwise consented to the purchase of a product or service;
- B. That any particular outcome or result from a product or service is guaranteed, assured, highly likely or probable, or very likely or probable;
- C. The nature or terms of any refund, cancellation, exchange, or repurchase policy, including, but not limited to, the likelihood of a consumer obtaining a full or partial refund, or the circumstances in which a full or partial refund will be provided to the consumer; and
- D. Any other fact material to consumers concerning any product or service, such as: the total costs; any material restrictions, limitations, or conditions; or any material aspect of its performance, efficacy, nature, or central characteristics.

**CONSUMER INFORMATION**

**IV. IT IS FURTHER ORDERED** that the Stipulating Defendants and their officers, agents, employees, and attorneys, and those Persons or entities in active concert or participation with any of them who receive actual notice of this Order by personal service, facsimile

transmission, email, or otherwise, whether acting directly or indirectly, are permanently restrained and enjoined from directly or indirectly:

- A. Failing to provide sufficient customer information to enable the FTC to administer efficiently consumer redress. If a representative of the FTC requests in writing any information related to redress, the Stipulating Defendants must provide it, in the form prescribed by the FTC, within 14 days.
- B. Disclosing, using, or benefitting from customer information, including the name, address, telephone number, email address, social security number, other identifying information, or any data that enables access to a customer's account (including a credit card, bank account, or other financial account) that any Defendant obtained prior to entry of this Order in connection with the marketing or offering of payday loans or other extensions of credit.
- C. Failing to destroy such customer information in all forms in their possession, custody, or control within thirty (30) days after receipt of written direction to do so from a representative of the FTC.

*Provided, however,* that customer information need not be disposed of, and may be disclosed, to the extent requested by a government agency or required by a law, regulation, or court order.

#### **MONETARY JUDGMENT AND SUSPENSION**

#### **V. IT IS FURTHER ORDERED** that:

- A. Judgment in the amount of SEVEN MILLION, ONE HUNDRED THIRTY-FIVE THOUSAND, NINE HUNDRED AND NINETY-TWO DOLLARS (\$7,135,992) is entered in favor of the FTC against the Stipulating Defendants, jointly and severally

1 with any other Defendant in this action against whom judgment may be entered, as  
2 equitable monetary relief.

3 B. The Stipulating Defendants shall, within ten (10) business days from the date of  
4 entry of this Order, transfer to the FTC or its designated agent cash in the amount of  
5 \$15,000.

6  
7 C. Upon the asset transfers identified in this Section, the remainder of the judgment is  
8 suspended as to the Stipulating Defendants, subject to the Subsections below.

9 D. The FTC's agreement to the suspension of the judgment is expressly premised upon  
10 the truthfulness, accuracy, and completeness of the Stipulating Defendants' sworn  
11 financial statements and related documents (collectively, "financial  
12 representations") submitted to the FTC, namely (1) the Financial Statement of  
13 Individual Defendant Theresa Bartholomew signed on April 26, 2015, including the  
14 attachments, and (2) the Financial Statement of Individual Defendant John  
15 Bartholomew signed on April 24, 2015, including the attachments.

16  
17 E. The suspension of the judgment will be lifted as to any Stipulating Defendant if,  
18 upon motion by the FTC, the Court finds that that Stipulating Defendant failed to  
19 disclose any material asset, materially misstated the value of any asset, or made any  
20 other material misstatement or omission in the financial representations identified  
21 above.  
22

23 F. If the suspension of the judgment is lifted, the judgment becomes immediately due  
24 as to that Stipulating Defendant in the amount specified in Subsection A above  
25 (which the parties stipulate only for purposes of this Section represents the  
26 consumer injury alleged in the Complaint), less any payment previously made  
27  
28

pursuant to this Section, plus interest computed from the date of entry of this Order.

- G. All money paid to the FTC pursuant to this Order may be deposited into a fund administered by the FTC or its designee to be used for equitable relief, including consumer redress and any attendant expenses for the administration of any redress fund. If a representative of the FTC decides that direct redress to consumers is wholly or partially impracticable or money remains after redress is completed, the FTC may apply any remaining money for such other equitable relief (including consumer information remedies) as the FTC determines to be reasonably related to the Stipulating Defendants' practices alleged in the Complaint. Any money not used for such equitable relief is to be deposited to the United States Treasury as equitable disgorgement. Defendants have no right to challenge any actions the FTC or its representatives may take pursuant to this Subsection.
- H. The Stipulating Defendants relinquish dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Order and may not seek the return of any assets.
- I. The facts alleged in the Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of the FTC, including in a proceeding to enforce its rights to any payment or monetary judgment pursuant to this Order, such as a nondischargeability complaint in any bankruptcy case.
- J. The facts alleged in the Complaint establish all elements necessary to sustain an action by the FTC pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and this Order will have collateral estoppel effect for such purposes.



1 K. The Stipulating Defendants acknowledge that their Taxpayer Identification  
2 Numbers (Social Security Numbers or Employer Identification Numbers), which  
3 the Stipulating Defendants previously submitted to the FTC, may be used for  
4 collecting and reporting on any delinquent amount arising out of this Order, in  
5 accordance with 31 U.S.C. § 7701.

6 L. Upon written request from a representative of the FTC, any consumer reporting  
7 agency may furnish consumer reports concerning any Stipulating Defendant,  
8 pursuant to Section 604(a)(1) of the Fair Credit Reporting Act, 15 U.S.C. §  
9 1681b(a)(1).  
10

11 **COOPERATION**

12 **VI. IT IS FURTHER ORDERED** the Stipulating Defendants must fully cooperate with  
13 representatives of the FTC in this case and in any investigation related to or associated  
14 with the transactions or the occurrences that are the subject of the Complaint. The  
15 Stipulating Defendants must provide truthful and complete information, evidence, and  
16 testimony. The Stipulating Defendants must appear for interviews, discovery, hearings,  
17 trials, and any other proceedings that a FTC representative may reasonably request upon  
18 5 days written notice, or other reasonable notice, at such places and times as a FTC  
19 representative may designate, without the service of a subpoena.  
20

21 **ORDER ACKNOWLEDGMENTS**

22 **VII. IT IS FURTHER ORDERED** that the Stipulating Defendants obtain acknowledgments  
23 of receipt of this Order:  
24  
25  
26  
27  
28

- 1 A. Each Stipulating Defendants, within 7 days of entry of this Order, must submit to  
2 the FTC an acknowledgment of receipt of this Order sworn under penalty of  
3 perjury.
- 4 B. For 5 years after entry of this Order, each Stipulating Defendant for any business  
5 that such Defendant, individually or collectively with any other Defendant, is the  
6 majority owner or controls directly or indirectly, must deliver a copy of this Order  
7 to: (1) all principals, officers, directors, and LLC managers and members; (2) all  
8 employees, agents, and representatives who participate in conduct related to the  
9 subject matter of the Order; and (3) any business entity resulting from any change  
10 in structure as set forth in the Section titled Compliance Reporting. Delivery must  
11 occur within 7 days of entry of this Order for current personnel. To all others,  
12 delivery must occur before they assume their responsibilities.
- 13 C. From each individual or entity to which a Stipulating Defendant delivered a copy  
14 of this Order, that Stipulating Defendant must obtain, within 30 days, a signed and  
15 dated acknowledgment of receipt of this Order.

#### COMPLIANCE REPORTING

16 **VIII. IT IS FURTHER ORDERED** that the Stipulating Defendants make timely submissions  
17 to the FTC:

- 18 A. One year after entry of this Order, each Stipulating Defendant must submit a  
19 compliance report, sworn under penalty of perjury:
  - 20 1. Each Stipulating Defendant must: (a) identify the primary physical,  
21 postal, and email address and telephone number, as designated points of  
22 contact, which representatives of the FTC may use to communicate with  
23  
24  
25  
26  
27  
28

1 the Stipulating Defendant; (b) identify all of the Stipulating Defendant's  
2 businesses by all of their names, telephone numbers, and physical, postal,  
3 email, and Internet addresses; (c) describe the activities of each business,  
4 including the products and services offered, the means of advertising,  
5 marketing, and sales, and the involvement of any other Defendant (which  
6 the Stipulating Defendant must describe if he or she knows or should  
7 know due to his or her own involvement); (d) describe in detail whether  
8 and how the Stipulating Defendant is in compliance with each Section of  
9 this Order; and (e) provide a copy of each Order Acknowledgment  
10 obtained pursuant to this Order, unless previously submitted to the FTC;  
11

- 12 2. Additionally, each Stipulating Defendant must: (a) identify all telephone  
13 numbers and physical, postal, email, and Internet addresses, including all  
14 residences; (b) identify all business activities, including any business for  
15 which the Stipulating Defendant performs services whether as an  
16 employee or otherwise and any entity in which the Stipulating Defendant  
17 has any ownership interest; and (c) describe in detail the Stipulating  
18 Defendant's involvement in each such business, including title, role,  
19 responsibilities, participation, authority, control, and any ownership.  
20

- 21  
22 B. For 20 years following entry of this Order, each Stipulating Defendant must  
23 submit a compliance notice, sworn under penalty of perjury, within 14 days of  
24 any change in the following:  
25

- 26 1. Each Stipulating Defendant must report any change in: (a) any designated  
27 point of contact; or (b) the structure of any entity that the Stipulating  
28

Defendant has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

2. Additionally, each Stipulating Defendant must report any change in: (a) name, including aliases or fictitious name, or residence address; or (b) title or role in any business activity, including any business for which the Stipulating Defendant performs services whether as an employee or otherwise and any entity in which the Stipulating Defendant has any ownership interest, and identify the name, physical address, and Internet address of the business entity.

C. Each Stipulating Defendant must submit to the FTC notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against such Stipulating Defendant within 14 days of its filing.

D. Any submission to the FTC required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: “I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on:\_\_\_\_\_” and supplying the date, signatory’s full name, title (if applicable), and signature.

E. Unless otherwise directed by a FTC representative in writing, all submissions to the FTC pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for

Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600  
Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin:  
*FTC v. Sequoia One, et al.*

#### **RECORDKEEPING**

- IX. IT IS FURTHER ORDERED** that the Stipulating Defendants must create certain records for 20 years after entry of the Order, and retain each such record for 5 years. Specifically, each Stipulating Defendant for any business that the Stipulating Defendant, individually or collectively with any other Defendant, is a majority owner or controls directly or indirectly, must create and maintain the following records:
- A. Proof of consumers' authorization to have their sensitive personal information transferred or disclosed, which includes the consumer's name, phone number, and address; and the manner, time, place, and method of the authorization;
  - B. Accounting records showing the revenues from all goods or services sold, all costs incurred in generating those revenues, and the resulting net profit or loss;
  - C. Personnel records showing, for each person providing services, whether as an employee or otherwise, that person's: name, addresses, and telephone numbers; job title or position; dates of service; and, if applicable, the reason for termination;
  - D. Records of all consumer complaints and refund requests, whether received directly or indirectly, such as through a third party, and any response;
  - E. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the FTC; and
  - F. A copy of each advertisement or other marketing material.

**COMPLIANCE MONITORING**

- 1
- 2 **X. IT IS FURTHER ORDERED** that, for the purpose of monitoring the Stipulating
- 3 Defendants' compliance with this Order, including the financial representations upon
- 4 which part of the judgment was suspended and any failure to transfer any assets as
- 5 required by this Order:
- 6
- 7 A. Within 14 days of receipt of a written request from a representative of the FTC,
- 8 each Stipulating Defendant must: submit additional compliance reports or other
- 9 requested information, which must be sworn under penalty of perjury; appear for
- 10 depositions; and produce documents, for inspection and copying. The FTC is also
- 11 authorized to obtain discovery, without further leave of Court, using any of the
- 12 procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including
- 13 telephonic depositions), 31, 33, 34, 36, 45, and 69.
- 14
- 15 B. For matters concerning this Order, the FTC is authorized to communicate directly
- 16 with each Stipulating Defendant. The Stipulating Defendants must permit
- 17 representatives of the FTC to interview any employee or other person affiliated
- 18 with any Stipulating Defendant who has agreed to such an interview. The person
- 19 interviewed may have counsel present.
- 20
- 21 C. The FTC may use all other lawful means, including posing, through its
- 22 representatives, as consumers, suppliers, or other individuals or entities, to the
- 23 Stipulating Defendants or any individual or entity affiliated with the Stipulating
- 24 Defendants, without the necessity of identification or prior notice. Nothing in this
- 25 Order limits the FTC's lawful use of compulsory process, pursuant to Sections 9
- 26 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.
- 27
- 28


**ENTRY OF JUDGMENT**

**XI. IT IS FURTHER ORDERED** that there is no just reason for delay of entry of this judgment, and that, pursuant to Federal Rule of Civil Procedure 54(b), the Clerk immediately shall enter this Order as a final judgment as to defendants Theresa Bartholomew and John Bartholomew.

**RETENTION OF JURISDICTION**

**XII. IT IS FURTHER ORDERED** that this Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

**IT IS SO ORDERED:**

  
UNITED STATES DISTRICT JUDGE

DATED: August 12, 2015